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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/090,198	03/04/2002	Jurgen Heigl	TRW(REPA)6053	3513

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EXAMINER

CULBRETH, ERIC D

ART UNIT	PAPER NUMBER
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3616

DATE MAILED: 03/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action
Before the Filing of an Appeal Brief

Application No.

10/090,198

Applicant(s)

HEIGL, JURGEN

Examiner

Eric D Culbreth

Art Unit

3616

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 08 February 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The reply was filed after the date of filing a Notice of Appeal, but prior to the date of filing an appeal brief. The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☒ Applicant's reply has overcome the following rejection(s): 112 rejection.

6. ☒ Newly proposed or amended claim(s) 13-16 would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 13-16.

Claim(s) objected to: _____.

Claim(s) rejected: 1-6, 9 and 10-12.

Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____

13. ☐ Other: _____.

Eric Culbreth

Eric D Culbreth
Primary Examiner
Art Unit: 3616

Continuation of 11. does NOT place the application in condition for allowance because: Although applicant states on page 8 of the remarks that many patents issue claiming the invention preassembled, these patents were not specifically pointed out. Moreover, even if "preassembled" inventions are claimed in other patents, this is a preassembled part that is not the final product (MPEP 2113). As also noted in the final rejection, at some point before the lining assembly with the airbag is finally mounted onto the vehicle, the two parts 12, 14 of Alb would be longitudinally displaceable (before cover 20 is connected). Regarding claim 9 of the remarks (that parts 12, 14 could not be attached to the vehicle without cover 20), since claims 1 and 11-12 only recite that there is a state before mounting where the lining pieces are longitudinally displaceable relative to each other, this would not exclude the stage in assembly where cover 20 has not yet been attached; hence the claims are met by the reference. Similarly, since what is claimed is an unmounted state, it is not required in this state that holes align with the vehicle (page 9, lower half, of remarks). Contrary to remarks on pages 9-10 of the remarks "vehicle interior lining" is not being interpreted too broadly (MPEP 2111 and 2111.01 cited in the final rejection); even if other names for the interior lining are garnish, covering or trim, (which might be visible to the passenger when assembled in place) since those terms are not being used in the claims, the reference still applies. The arguments on pages 10-11 regarding claims 11-12 are considered moot in view of the issues noted above by the examiner (at the stage before cover 20 is connected, the assembly is foldable into a package as functionally recited and connected by the gas bag only; again, the claim language only alludes broadly and functionally to an unmounted state). The same principles apply to the rejection of claims 1-5 and 9-10 with Miyahara (Miyahara does teach a vehicle lining as broadly recited as per MPEP 2111 and 2111.01; the vehicle lining as broadly recited does not have to be longitudinally displaceable; the two pieces are longitudinally displaceable as a preassembled unit at some point before final installation). The claim language of those claims rejected with Miyahara do not require the cover parts to be longitudinally displaceable when installed (page 11 of the remarks). The ends of the pieces 53, 54 are spaced from each other in Figure 4 of Miyahara (claim 9) (pages 12-13 of the remarks). Finally, regarding the 112 rejection of claim 13, although lines 5-6 are now present in the claim and make it allowable, in the set of claims finally rejected lines 5-6 were missing. As long as claim 13 has lines 5-6 and all the other limitations currently in the claim, it is allowable.